

## **Assembly Bill No. 2297**

### **CHAPTER 259**

An act to amend Section 76140 of, and to add Section 76140.3 to, the Education Code, relating to community colleges.

[Approved by Governor September 23, 2010. Filed with  
Secretary of State September 24, 2010.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2297, Brownley. Community colleges: nonresident fees.

(1) Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law also authorizes the establishment of community college districts, and further authorizes the operation, by these districts, of community college campuses that offer instructional services throughout the state.

Existing law requires a community college district to charge a nonresident tuition fee to nonresident students, with certain exceptions. Existing law requires the fee to be set according to one of 4 formulas, one of which divides the expense of education in all districts by the number of full-time equivalent students, as defined, attending all districts in the preceding fiscal year.

This bill would provide that if the amount calculated by this formula for the succeeding fiscal year is less than a specified amount, then the district is authorized to set the nonresident tuition fee at a specified amount.

(2) Existing law requires the governing board of a community college district to consider nonresident tuition fees of public community colleges in other states when adopting a tuition fee for nonresident students.

This bill would delete the requirement that the governing board of a community college district consider nonresident tuition fees of public community colleges in other states, and instead authorize the governing board to adopt a nonresident tuition fee that is no greater than the average of the nonresident tuition fees of public community colleges of no less than 12 states with comparable cost of living, as defined.

This bill would require the additional revenue generated by the increased nonresident tuition permitted under the changes to existing law made by this bill to be used to expand and enhance services to resident students, and would prohibit the admission of nonresident students from coming at the expense of resident enrollment.

(3) This bill would require the Chancellor's Office of the California Community Colleges to make specified data relating to nonresident tuition available to the Legislative Analyst's Office, and would require the

Legislative Analyst's Office to include a summary of this data in its annual analysis of the Governor's budget proposal.

*The people of the State of California do enact as follows:*

SECTION 1. Section 76140 of the Education Code is amended to read:

76140. (a) A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee any person described in paragraph (1), (2), or (3):

(1) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this paragraph shall not be made on an individual basis.

(2) Any nonresident who is both a citizen and resident of a foreign country, if the nonresident has demonstrated a financial need for the exemption. Not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this paragraph may be made on an individual basis.

(3) (A) A student who, as of August 29, 2005, was enrolled, or admitted with an intention to enroll, in the fall term of the 2005–06 academic year in a regionally accredited institution of higher education in Alabama, Louisiana, or Mississippi, and who could not continue his or her attendance at that institution as a direct consequence of damage sustained by that institution as a result of Hurricane Katrina.

(B) The chancellor shall develop guidelines for the implementation of this paragraph. These guidelines shall include standards for appropriate documentation of student eligibility to the extent feasible.

(C) This paragraph shall apply only to the 2005–06 academic year.

(b) A district may contract with a state, a county contiguous to California, the federal government, or a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

(c) Nonresident students shall not be reported as full-time equivalent students (FTES) for state apportionment purposes, except as provided by subdivision (j) or another statute, in which case a nonresident tuition fee may not be charged.

(d) The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. The governing board of each community college district shall provide nonresident students with notice of nonresident tuition fee changes during the spring term before the fall term in which the change will take effect. Nonresident tuition fee increases shall be gradual, moderate, and predictable. The fee may be paid in installments, as determined by the governing board of the district.

(e) (1) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year one or more of the following:

(A) The amount that was expended by the district for the expense of education as defined by the California Community College Budget and

Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the district in the preceding fiscal year. However, if for the district's preceding fiscal year FTES of all students attending in the district in noncredit courses is equal to, or greater than, 10 percent of the district's total FTES attending in the district, the district may substitute the data for expense of education in grades 13 and 14 and FTES in grades 13 and 14 attending in the district.

(B) The expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all districts during the preceding fiscal year. However, if the amount calculated under this paragraph for the succeeding fiscal year is less than the amount established for the current fiscal year or for any of the past four fiscal years, the district may set the nonresident tuition fee at the greater of the current or any of the past four-year amounts.

(C) An amount not to exceed the fee established by the governing board of any contiguous district.

(D) An amount not to exceed the amount that was expended by the district for the expense of education, but in no case less than the statewide average as set forth in subparagraph (B).

(E) An amount no greater than the average of the nonresident tuition fees of public community colleges of no less than 12 states that are comparable to California in cost of living. The determination of comparable states shall be based on a composite cost-of-living index as determined by the United States Department of Labor or a cooperating government agency.

(2) The additional revenue generated by the increased nonresident tuition permitted under the amendments made to this subdivision during the 2009–10 Regular Session shall be used to expand and enhance services to resident students. In no event shall the admission of nonresident students come at the expense of resident enrollment.

(f) The governing board of each community college district also shall adopt a tuition fee per unit of credit for nonresident students enrolled in more or less than 15 units of credit per term by dividing the fee determined in subdivision (e) by 30 for colleges operating on the semester system and 45 for colleges operating on the quarter system and rounding to the nearest whole dollar. The same rate shall be uniformly charged nonresident students attending any terms or sessions maintained by the community college. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

(g) Any loss in district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

(h) Any district that has fewer than 1,500 FTES and whose boundary is within 10 miles of another state that has a reciprocity agreement with

California governing student attendance and fees may exempt students from that state from the mandatory fee requirement described in subdivision (a) for nonresident students.

(i) Any district that has more than 1,500, but less than 3,001, FTES and whose boundary is within 10 miles of another state that has a reciprocity agreement with California governing student attendance and fees may, in any one fiscal year, exempt up to 100 FTES from that state from the mandatory fee requirement described in subdivision (a) for nonresident students.

(j) The attendance of nonresident students who are exempted pursuant to subdivision (h) or (i), or pursuant to paragraph (3) of subdivision (a), from the mandatory fee requirement described in subdivision (a) for nonresident students may be reported as resident FTES for state apportionment purposes. Any nonresident student reported as resident FTES for state apportionment purposes pursuant to subdivision (h) or (i) shall pay a fee of forty-two dollars (\$42) per course unit. That fee is to be included in the FTES adjustments described in Section 76330 for purposes of computing apportionments.

SEC. 2. Section 76140.3 is added to the Education Code, to read:

76140.3. (a) The Chancellor's Office of the California Community Colleges shall make available to the Legislative Analyst's Office all of the following data, categorized by community college district and by academic year, commencing with the 2009–10 academic year:

(1) The number of resident students, rendered both as headcount and as full-time equivalent students (FTES), including an identification of any resident enrollment above the district's cap.

(2) The number of nonresident students, rendered both as headcount and as FTES.

(3) The per-unit nonresident tuition rate.

(4) The total amount of revenue received from nonresident tuition.

(5) The total apportionment funding received by the district.

(b) The Legislative Analyst's Office shall include, in its annual analysis of the Governor's budget proposal, a summary of the data made available pursuant to subdivision (a), as well as an analysis of the degree to which the affected community colleges have complied with the requirements of paragraph (2) of subdivision (e) of Section 76140.